



Image 1761

PATENT
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

M. DeRaud and A. Gambel

Serial No: 09/954,491

Filed: September 11, 2001

For: **A METHOD OF CONFIGURING
A SLICE OF PIZZA-TYPE PIE
AND AN APPARATUS FOR
PREPARING A PIZZA-TYPE
PIE**

Group Art Unit: 1761

Examiner: Tran Lien, Thuy

**RESPONSE TO RESTRICTION
REQUIREMENT**

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being mailed to the Patent and Trademark Office on this date October 17, 2003 addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

By: 
Sandra D. Hunter

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is being submitted in response to an Office Action issued by the Examiner on September 30, 2003. Since this response is being filed within the one (1) month due date, Applicants do not believe that a fee is necessitated by filing this response. Applicants respectfully request reconsideration and withdrawal of the restriction requirement in view of following arguments and remarks.

R E M A R K S

This paper is being filed in response to an Office Action dated September 30, 2003. Claims 1-49 are currently pending in this application.

The Restriction Requirement

The Examiner requires restriction of the claims pursuant to 35 U.S.C. § 121 to the following inventions:

- Group I: claims 1-28, drawn to a method of folding, classified in class 426, subclass 502;
- Group II: claims 30-42, drawn to a pizza product, classified in class 426, subclass 275; and
- Group III: claims 43-49, drawn to a shield, classified in class 99.

The Examiner asserts that (i) the inventions of Group I and Group II are unrelated and independent because “the folding method and folded product of I are different from the product of II,” (ii) the inventions of Group I (process and product-by-process) and Group III (apparatus for its practice) are distinct because the process claims of Group I “can be practiced by hand,” and (iii) the inventions of Group II and Group III are distinct because “the apparatus as claimed is not an obvious for making the product and the apparatus can be used for making a different product such as making sliced cheese.”

As a preliminary matter, Applicants respectfully believe the Examiner intended to include claim 29 in Group I, because claim 29 depends from independent claim 27, which is included in the invention of Group I. Furthermore, Applicants wish to clarify that (a) the inventions of Group I relate to methods/processes and products obtained from the methods/processes and (b) the inventions of Group II relate to various pizza-type pie configurations, from which usable slices can be obtained, and particular configurations of slices that can be used in the methods/processes and products obtained therefrom of Group I. For convenience, the inventions of Group I claims are hereinafter referred to as process/product-by-process claims, the inventions of Group II claims are hereinafter referred to as pizza/slice configuration claims.

Applicants respectfully traverse this restriction requirement. As recited in MPEP § 803, a requirement for restriction between patentably distinct inventions is proper if two basic criteria are met:

(A) The inventions must be independent . . . or distinct as claimed . . . ; and (B) There must be a serious burden on the examiner if restriction is required (*Emphasis added.*)

Applicants respectfully submit that a search of the relevant prior art for the process/product-by-process claims (Group I), the pizza/slice configuration claims (Group II), and the apparatus claims (Group III) would not put a “serious burden” on the Examiner, because a search of prior art process/product-by-process would uncover all of the relevant prior art documents for the processes/product-by-processes, the pizza/slice configurations, and the apparatuses. For example, the process/product-by-process claims (Group I) and the pizza/slice configuration claims (Group II) are classified in the same class 426. Accordingly, Applicants respectfully request reconsideration and withdrawal of this restriction requirement.

Notwithstanding the above and if the Examiner maintains this restriction requirement, Applicants provisionally elect process/product-by-process claims 1-29 (Group I) with traversal for further prosecution on the merits.

Conclusion

Applicants believe they have provided a complete response to the restriction requirement. For the reasons articulated above, reconsideration and withdrawal of the restriction requirement is respectfully requested.

Respectfully submitted,

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Dated: October 17, 2003

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